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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,723	04/04/2001	Paul Wixelbaum	1125	3174

7590 06/01/2004  
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EXAMINER

FRANKLIN, JAMARA ALZAIDA

ART UNIT PAPER NUMBER

2876

DATE MAILED: 06/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicati n No.

09/825,723

Applicant(s)

WAXELBAUM, PAUL

Examiner

Jamara A. Franklin

Art Unit

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*Paul*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 21-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/6/04 has been entered.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 21-24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nikolic et al. (US 5,786,748) (hereinafter referred to as 'Nikolic') in view of La et al. (US 5,665,956) (hereinafter referred to as 'La') and Miller et al. (US 5,672,860) (hereinafter referred to as 'Miller').

Nikolic teaches a method of delivering a message from a mobile sender to a mobile recipient, comprising the steps of:

providing the mobile sender with a portable data collection terminal (transmitting

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pager/reader 50) having an actuatable electro-optical reader for reading machine-readable indicia and a wireless transceiver;

actuating the reader to capture information from the indicia to automatically enter data in the interface, to compile a message from automatically entered data, the information captured by the reader, and a destination specified by the mobile sender (col. 2, lines 21-31);

transmitting the message to a server over a wireless link by operating the transceiver;  
and

delivering the message at the destination of the mobile recipient by processing the message at the server (col. 2, lines 39-51);

the method wherein the delivering step is performed by transmitting an alert over a wireless link to the mobile recipient;

the method wherein the alert is a radio frequency paging signal for signaling a pager at the mobile recipient;

the method providing the mobile recipient with a portable unit having a wireless transceiver, and wherein the delivering step is performed by transmitting over a wireless link to the unit one of the message and a notification indicating that the message is available (col. 3, lines 33-38);

Nikolic lacks the teaching of the portable data collection terminal having a memory for storing a unique identifier and a message containing the identifier.

La teaches a data collection terminal having a memory for storing a unique identifier and compiles a message containing the identifier (col. 3, lines 31-35 and col. 4, line 60-col. 5, line 14).

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One of ordinary skill in the art would have readily recognized that providing the Nikolic invention with a memory for storing a unique identifier and compiling a message with the identifier would have been beneficial for providing a positive indication of the mobile sender to the party receiving the message. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Nikolic with the aforementioned teachings of La.

Nikolic/La lack the teaching of providing a display on the terminal for displaying the collected data.

Miller teaches a data collection terminal (bar code reader and terminal device 10) having a display (12) on the terminal (10) for displaying the collected data and an interface on the display (12) for prompting the mobile sender to sequentially collect the data (col. 4, lines 16-24).

One of ordinary skill in the art would have readily recognized that the invention of Nikolic would have benefited from a display since the display would have allowed for immediate human-perceptible recognition of scanned data. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Nikolic/La with the display as taught by Miller.

4. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nikolic/La/Miller as applied to claim 21 above, and further in view of Walsh et al (US 6,633,746) (hereinafter referred to as 'Walsh').

The teachings of Nikolic/La/Miller have been discussed above.

Nikolic/La/Miller lack the teaching of the server creating an internet web page containing the message if the notification had been transmitted (col. 3, lines 35-62).

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Walsh teaches the server creating an internet web page containing the message if the notification had been transmitted and providing a display on the unit for viewing the message.

One of ordinary skill in the art would have readily recognized that the web page would have been beneficial to the invention of Nikolic/La/Miller to create a record as to the notification of a mobile recipient. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Nikolic/La/Miller with the aforementioned teaching of Walsh.

### ***Response to Arguments***

5. Applicant's arguments filed 3/14/04 have been fully considered but they are not persuasive.

Regarding the argument that the Miller reference does not disclose or suggest that it may be desirable to prompt a user to sequentially collect data by a combination of manually entered data and automatically entered data, the examiner submits that the Miller reference teaches the capture of manually entered data as evident by the touch screen which collects data as entered by a user (col. 4, lines 16-18).

The Miller reference is relied upon as a teaching of a prompt to manually enter data from a user while the Nikolic reference is relied upon as a teaching of automatically entered data.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamara A. Franklin whose telephone number is (571) 272-2389.

The examiner can normally be reached on Monday through Friday 8:00am to 4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jamara A. Franklin  
Examiner  
Art Unit 2876

JAF  
May 24, 2004

  
MICHAEL G. LEE  
SUPERVISORY PATENT EXAMINER  
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